

**STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION**

In the Matter of:)	Docket No. 03-IEP-01 and 03-RPS-1078
Informational Proceeding and)	NOTICE OF COMMITTEE WORKSHOP
Preparation of the 2004 Integrated)	RE: Accelerated Renewable
<u>Energy Policy Report (IEPR) Update</u>)	<u>Energy Development</u>

**Solargenix Reply Comments
on Accelerating the RPS Portfolio to 2010**

**Mark J. Skowronski
SOLARGENIX ENERGY, LLC
3501 Jamboree Road
South Tower / Suite 606
Newport Beach CA 92660
(telephone) 949-856-2200
(fax) 949-856-2313
mjskowronski@inlandenergy.com**

May 10, 2004

Solargenix Reply Comments on Accelerating the RPS Portfolio to 2010

Introduction

Solargenix appreciates the opportunity to comment on the CEC's proposal on the Accelerated Renewable Energy Procurement and the methods and rules that are needed for implementation. The acceleration of the renewable portfolio standards to 2010 will obviously be consistent with previously CPUC approved Energy Action Plan and the workshops held to date, at both the CEC and CPUC, appear to be creating an infrastructure that will well serve the acceleration of the renewable portfolio to the betterment of the California ratepayer. Solargenix respectfully submits the following reply comments in regard to the May 4th workshop discussions:

Renewable Portfolio Standard Goals Beyond 2010

Much of the discussion at the workshop held on May 4th centered on how the funding structure would allow continuing payment of the Supplemental Energy Payment beyond 2010. At the hearing, Solargenix presented a concept for funding and wishes to formalize and clarify in these Reply Comments.

Recommendation

Currently, a component of the ratepayer funded public goods charge is used to provide funds for the SEP account. If legislation is enacted to increase and extend the RPS beyond 2010, Solargenix recommends that the new legislation includes provisions that would ensure sufficient funding for the possibility of an increased number of the approved RPS contracts priced above the MPR. One provision should extend the PGC component to coincide with the new 2010 date. Another provision should require the IOU to make a payment to the SEP account for contracts priced below the MPR. The payment would be based on the difference between the contract price and the MPR.

Discussion

The Supplemental Energy Payments (SEP) are paid to those renewable generators whose bids to the IOU exceeds the Market Price Referent (MPR). If the accepted bid exceeds the MPR then the renewable generator may claim a SEP from the CEC to make up the difference.

The proposed IOU SEP fund payment approach would act as insurance against the possibility of a depleted SEP account that would not be able to meet the demand resulting from the acceleration of more RPS contracts priced above the MPR than would have existed otherwise. Under existing law, in the event that the SEP account is depleted, contracts above the MPR would not be approved by the CPUC. Thus, the accelerated 2010 RPS deadline would be counterproductive. Having IOUs pay into the SEP account

for those MPR-below contracts will ensure that all contracts requiring SEP funding will receive such funding, provided that a sufficient number of contracts are signed below the MPR.

The MPR is intended to hold both the utility and ratepayer indifferent to what the IOU otherwise would have paid for a fossil plant equivalent. However, the structure of SEP payment is not “net-net”. In other words, if the renewable generator bid comes in less than the MPR then the IOU is no longer indifferent but actually benefits from that bid. For example, if 100 MW’s of renewable come in at, say, 2 cents/kWh above the MPR then the IOU is indifferent because it pays no more than the MPR. However, if another 100 MW’s come in at 2 cent/kWh below the MPR then the IOU actually comes out ahead and is no longer indifferent, yet the SEP fund is depleted because no credit is given to the fund for bids that are below the MPR.

The intent and spirit behind the concept of the RPS legislation (and the SEP payment) is that the IOU should be encouraged to contract a diversity of renewables and to be monetarily indifferent to the cost of renewable generation. Accordingly, Solargenix proposes that future funding beyond 2010 be funded, in part, by the adoption of a total accounting methodology whereby the monetary benefits of any renewable bid below the MPR be taken into account to offset the payment of SEP for bids over the MPR.

Re-Calculation of Utility Goals

The English poet Robert Browning once said that “a man’s reach should exceed his grasp”. The fact that the RPS is easily achieved by one utility and is most difficult for another is a form of ratepayer penalty for the IOU that does not have easy access to indigenous resources. Solargenix strongly supports fair and equitable RPS goals that are unique and specific to each IOU such that any burden resulting from a lack of these indigenous resources may be fairly distributed. In addition, an open and competitive REC market in the California (and beyond) market would allow active trading of REC’s so that an IOU could purchase these credits in lieu of investing in a non-competitive resource to meet its Annual Procurement Target (APT). However, the Commission should also ensure that resource diversity remains a viable goal.

Application of the RPS to Publicly Owned Utilities

The piece of the puzzle that is missing in the overall California RPS initiative is the lack of RPS commitment by the municipal utilities (“Municipals”). At the workshop, the argument was made that many small Municipals simply cannot adhere to the RPS standard without substantial cost penalties and this is a valid argument. However, the smaller Municipals can aggregate their sales/load, e.g. Southern California Public Power Authority (SCPPA), such that the product content of their generation attains the 20% renewable goal.

In addition, a viable REC market will make it easy for the smaller Municipals to participate in the RPS program. However, legislation will be needed to require municipal utilities to allocate a portion of their Public Goods Charge to establish a SEP account. The municipal utility would not be required to contribute more to their RPS effort than their prorated apportioned SEP derived from the Public Goods Charge.

Tradeable REC's

A viable REC market is essential for both municipal utility participation in the RPS program and for re-calibration of individual IOU RPS goals. Any municipal utility or IOU should be allowed to purchase REC's in lieu of signing PPA's. A true REC market will "even everything out" such that value, risk, liability and indebtedness to each IOU will be apportioned, by market forces, in the price of the REC. For example, an IOU that values a higher bond rating that may result from not signing a PPA will pay accordingly in the market for the REC. The REC market will be "funded" by the over building or purchase of an IOU REC related to the building a renewable plant (or entering into a PPA) at a cost that is less than the REC market value. The REC market should also allow bilateral transactions in order to reduce the risk of volatility between the exchanging parties. There is no fairer way to distribute the costs and benefits of renewable generation than by having its generation, by proxy, traded in the REC market. However, should the Commission allow REC's to substitute for the IOU's APT then these REC's must be an "apple to apple" comparison as a wind REC should not count as much as a solar thermal REC since wind represents 'as-available" energy vs. the higher valued "on-peak" energy provided by solar thermal. A distinction must be made between a REC for emission consideration and a REC for generation consideration, i.e. generation for APT goals.

Respectfully Submitted
Mark J. Skowronski
For Solargenix Energy, LLC